



**MICHAEL P. WALLS**  
VICE PRESIDENT  
REGULATORY & TECHNICAL AFFAIRS

August 18, 2016

Mr. James Jones  
Assistant Administrator, 7101M  
William Jefferson Clinton Building  
U.S. Environmental Protection Agency  
1201 Pennsylvania Avenue, NW  
Washington D.C. 20460

Dear Jim:

The American Chemistry Council strongly encourages EPA to move promptly to seek nominations to the Science Advisory Committee on Chemicals (SACC) so as to permit sufficient time to receive and obtain public comment on those nominations before the Agency makes any appointments to the SACC.

The Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act (LCSA) includes an important provision requiring EPA to establish a SACC not later than one year after enactment, i.e., by June 22, 2017. The SACC is directed by statute to provide independent expert advice and consultation regarding the scientific and technical aspects of issues relating to the implementation of the LCSA. Section 26 of the LCSA specifically mandates that the SACC shall be composed of representatives of science, government, labor, public health, public interest, animal protection, industry, and other groups EPA determines it would be “advisable” to include.

ACC believes it is critical that EPA engage stakeholders in its selection of the SACC, consistent with President Obama’s Memorandum on Transparency and Open Government, which EPA has interpreted to mean “fostering a culture of transparency, participation, and collaboration throughout the government.”<sup>1</sup>

In addition, the Administrative Conference of the United States Committee on Collaborative Governance (Committee) has researched Federal Advisory Committees (FACs) and their effectiveness.<sup>2</sup> In December 2011, the Committee recommended a number of improvements and

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<sup>1</sup><https://www.epa.gov/open>

<sup>2</sup> The Administrative Conference is an independent federal agency dedicated to improving the administrative process through consensus-driven applied research, providing nonpartisan expert advice and recommendation for improving federal agency procedures. Its membership is composed of innovative federal officials and experts with diverse views and backgrounds from both the private sector and academia. The Administrative Conference is committed to promoting improved government procedures including fair and effective dispute resolution and wide public



“best practices” agencies should adopt. Regarding the selection of members to serve on FACs, the Committee recommended the following:

- Upon creating a new advisory committee, agencies should announce the committee’s mission in the Federal Register and/or on the agencies’ website and invite public nominations from the general public, from expert communities with experience in the subject matter of the committee’s assignment, and/or from groups especially likely to be affected by the committee’s work;
- Prior to finalizing the membership of an advisory committee, agencies should provide in a Federal Register notice and/or on the agency’s website a list of persons from whom potential committee members may be selected and a brief biographical statement for each such individual setting forth his or her relevant professional credentials. Agencies should then provide an opportunity for public input related to the proposed members’ professional credentials and potential conflicts of interest or sources of bias. Such public comments should be kept confidential to the extent permissible by law, though the agency should notify potential committee members of the possibility of disclosure of those comments under the Freedom of Information Act. The agency should also consider announcing a slate of potential committee members larger than the number of positions on the committee so as to minimize any negative implications associated with not being selected to serve.<sup>3</sup>

In keeping with this guidance, ACC urges EPA to engage stakeholders in the nomination and selection process of members to the SACC in the interests of transparency and identifying the candidates who can provide the breadth and depth of scientific expertise needed, as well as the appropriate balance and cross-section of stakeholder interest called for in the statute. In addition, EPA should provide an adequate opportunity for public comment on each candidate nominated by publishing each candidates’ curriculum vitae on EPA’s website and announcing in the Federal Register the opportunity for stakeholder comment on those nominations.

The LCSA has established aggressive deadlines on critical aspects of the Act, such as rulemakings for prioritization and risk evaluation processes, both of which are to be implemented within one year of enactment. In order to maximize efficiencies, EPA should have the SACC in place to review and provide input into EPA’s final rulemaking on these critical components of the Act. EPA’s current Chemical Safety Advisory Committee (CSAC) does not satisfy the representation requirements of the SACC as set forth in the statute. Indeed, the current CSAC consists of eight individuals from academic institutions, with no identifiable background in regulatory risk evaluation; another member is from the American Cancer Society; and the tenth member is a Deputy Division Director of the National Institutes of Environmental Health Sciences. This representation is decidedly not consistent with the requirements of the LCSA.

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participation and efficiency in the rulemaking process by leveraging interactive technologies and encouraging open communication with the public.

<sup>3</sup> The Administrative Conference of the United States, Committee on Collaborative Governance, *The Federal Advisory Act – Issues and proposed Reforms Proposed Recommendations*, December 8-9, 2011, at 13-14.

ACC believes the CSAC should be sunset and the SACC solicitation and nomination process should be initiated promptly in order to allow for public participation in the selection process. EPA should also conduct an orientation session for SACC members to become familiar with the new statute as well as EPA's relevant authorities and obligations under the law.

The CSAC was engaged primarily to provide peer review of EPA's Work Plan risk assessments, but is not composed of the appropriate numbers of members with relevant expertise necessary to conduct peer review of EPA's risk evaluations that will be required under the new Act. In order for a peer review panel to engage in the robust scientific debate and discussion necessary to conduct adequate peer review, any given peer review panel should consist of at least two representatives from the relevant disciplines. Therefore, ACC urges EPA to compose each and every peer review panel with at least two-to-three regulatory risk assessors and exposure experts, and human health hazard toxicologists and/or ecological toxicology experts as warranted by the nature of the risk evaluation.

A newly established SACC can be structured, just as the CSAC was, in such a manner so as to have a standing body of committee members to be supplemented by subgroups as necessary with specific expertise as needed for any particular peer review of an Agency risk evaluation. Alternatively, the SACC could be composed of a pool of representatives with overlapping expertise who could be drawn from to serve on peer review panels and/or to provide scientific advice on particular technical questions. In addition, ACC urges EPA to adopt EPA's Science Advisory Board's FY12 Initiatives to Enhance Public Involvement in Advisory Activities for the SACC's activities on the LCSA.<sup>4</sup>

In conclusion, ACC urges EPA to move swiftly to seek nominations for its SACC, in accordance with the LCSA requirements and consistent with the recommendations of the Administrative Conference of the United States on FACs.

Sincerely,



Michael P. Walls  
Vice President  
Regulatory & Technical Affairs

Cc: Wendy Cleland-Hamnett

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<sup>4</sup> See: <https://yosemite.epa.gov/sab/sabproduct.nsf/Web/PublicInvolvement?OpenDocument>